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In re Application of :
Miquel Sale Amill et al :
Serial No.: 10/022,481 : PETITION DECISION
Filed: December 18, 2001 :
Attorney Docket No.: INL-048 :

This is in response to the petition under 37 CFR 1.181, filed July 19, 2005, requesting withdrawal of the Final rejection.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on November 5, 2003, setting a three month shortened statutory period for reply. Applicants filed an improper reply on May 17, 2004 (Certificate of Mailing dated February 5, 2004), including a three month extension of time and fee, and a complete proper reply on August 4, 2004.

The examiner mailed a new Office action to applicants on December 15, 2004, setting a three month shortened statutory period for reply. The summary sheet of the Office action indicates the Office action is a non-Final Office action. The penultimate page of the Office action states that the Office action is FINAL. Applicants replied on April 15, 2005, including a one month extension of time and fee therefore. The submission was added to the Image File Wrapper, but for some reason not all of the papers were properly entered into the PALM system at that time (they have since been entered).

In view of the supposed finality of the Office action the examiner mailed an Advisory action to applicants on July 13, 2005.

DISCUSSION

The mailing of an Office action containing contradictory indications of status (Final versus non-Final) is improper. As a consequence, the Office action must be considered a non-Final Office action. The response to the Office action must be entered and considered fully. The mailing of an Advisory action is not sufficient. A full Office action on the merits must be fashioned.

The petition is **GRANTED**. The Office action mailed December 15, 2004, is designated a non-Final Office action. The reply received April 15, 2005, is considered timely and is entered. The Advisory action mailed July 15, 2005, is withdrawn.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

A handwritten signature in cursive script, reading "George C. Elliott".

George C. Elliott
Director, Technology Center 1600